

Introduced by Committee on Local Government (Kehoe (Chair), Ackerman, Cox, Kuehl, Machado, McClintock, Perata, Soto, and Torlakson)

January 24, 2006

An act to amend Sections 58950, 61107, 65457, 66016, and 66499.7 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1196, as introduced, Committee on Local Government. Local Government Omnibus Act of 2006.

(1) Existing law establishes the procedures for relieving from specified tax liability territory that has been detached from a district.

This bill would correct an obsolete cross-reference in those procedures.

(2) The Planning and Zoning Law specifies the requirements for adopting and implementing specific plans.

This bill would delete an obsolete cross-reference in that law to a provision of California Environmental Quality Act relating to environmental impacts for residential development projects.

(3) The Mitigation Fee Act specifies how local governmental officials impose fees to recover the costs of processing applications for the costs of processing applications for development projects.

This bill would delete an obsolete cross-reference to a fee that has been consolidated with other fees.

(4) The Subdivision Map Act regulates how counties and cities approve the conversion of large landholdings into separate parcels. In those procedures, the Legislature generally employed the term "local agency" to refer to counties and cities.

This bill would conform a provision of that act concerning the posting of security by subdividers to delete the term “public entity” and instead use “local agency.”

(5) The bill would correct various drafting errors relating to local government.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) This act shall be known and may be cited as
2 the Local Government Omnibus Act of 2006.

3 (b) The Legislature finds and declares that Californians want
4 their governments to be run efficiently and economically and that
5 public officials should avoid waste and duplication whenever
6 possible. The Legislature further finds and declares that it desires
7 to control its own costs by reducing the number of separate bills.
8 Therefore, it is the intent of the Legislature in enacting this act to
9 combine several minor, noncontroversial statutory changes relating
10 to local government into a single measure.

11 SEC. 2. Section 58950 of the Government Code is amended
12 to read:

13 58950. If territory has been detached from a district and ~~such~~
14 ~~that~~ detached territory is subject to terms and conditions imposed
15 by the local agency formation commission pursuant to Section
16 ~~56470~~ 56886 and ~~such~~ those terms and conditions require that the
17 detached territory continue to be taxed for the payment of principal
18 and interest on outstanding bonds of the district, the governing
19 body of the district from which the territory was detached may
20 absolve and relieve the detached territory of its annual tax liability
21 as follows:

22 (a) The district board shall, by resolution, declare its intention
23 to relieve the detached territory of its annual tax liability for
24 payment of principal and interest on outstanding district bonds.
25 The resolution shall describe the detached territory, specify the
26 annual liability the territory will be relieved of, state the reason or
27 reasons why the detached territory should be relieved, and fix a
28 time, date, and place for a public hearing on the proposed relief
29 of liability.

1 (b) The district board shall cause notice of the hearing to be
2 published pursuant to Section 6066 in a newspaper of general
3 circulation published in the territory of the district and the detached
4 territory. The notice shall contain all the information specified in
5 subdivision (a), and in lieu of notice the district board may cause
6 a copy of the resolution required in subdivision (a) to be published.

7 (c) At the time, date and place stated in the notice, the district
8 board shall hear and consider all objections or protests to relieving
9 the detached territory of annual liability for payment of principal
10 and interest on outstanding district bonds. The hearing may be
11 continued from time to time. Upon conclusion of the hearing, the
12 district board shall determine by resolution, whether or not the
13 detached territory should be relieved and absolved of any future
14 annual tax liability for the outstanding bonds of the district.

15 (d) If the district board determines that the detached territory
16 should be relieved of annual tax liability, it shall cause a copy of
17 its resolution to be filed pursuant to Section 54902 with the Board
18 of Equalization and the county assessor of the county in which the
19 territory is located. The detached territory shall be relieved and
20 absolved of the annual tax liability for outstanding district bonds
21 imposed by the local agency formation commission in the year
22 next succeeding adoption of the resolution when assessments or
23 taxes are to be levied for payment of the principal and interest on
24 the bonds.

25 Nothing in this section shall be construed as in any way limiting
26 the power of a bondholder to enforce his *or her* contractual rights
27 and nothing in this section shall affect the ultimate liability of ~~such~~
28 *that* detached territory for the bonded indebtedness of the district
29 in case of default. This section is intended to provide a means of
30 relieving territory detached from a district from annual assessments
31 for the principal and interest on bonded indebtedness when ~~such~~
32 *that* territory is no longer receiving the services for which ~~such~~
33 *the* bonded indebtedness was incurred.

34 SEC. 3. Section 61107 of the Government Code is amended
35 to read:

36 61107. (a) If a board of directors desires to divest itself of a
37 power that is authorized pursuant to this chapter and if the
38 termination of that power would require another public agency to
39 provide a new or higher level of services or facilities, the district
40 shall first receive the approval of the local agency formation

1 commission. To the extent feasible, the local agency formation
2 commission shall proceed pursuant to Article 1.5 (commencing
3 with Section 56824.10) of Chapter 5 of Part 3 of Division 3. After
4 receiving the approval of the local agency formation commission,
5 the board of directors may, by ordinance, divest itself of that power.

6 (b) Notwithstanding subdivision (a) of Section 56824.14, the
7 local agency formation commission shall not, after a public ~~housing~~
8 *hearing* called and held for that purpose pursuant to subdivisions
9 (b) and (c) of Section 56824.14, approve a district's proposal to
10 exercise a latent power if the local agency formation commission
11 determines that another local agency already provides substantially
12 similar services or facilities to the territory where the district
13 proposes to exercise that latent power.

14 (c) If a board of directors desires to divest itself of a power that
15 is authorized pursuant to this chapter and if the termination of that
16 power would not require another public agency to provide a new
17 or higher level of services or facilities, the board of directors may,
18 by ordinance, divest itself of that power.

19 SEC. 4. Section 65457 of the Government Code is amended
20 to read:

21 65457. (a) Any residential development project, including any
22 subdivision, or any zoning change that is undertaken to implement
23 and is consistent with a specific plan for which an environmental
24 impact report has been certified after January 1, 1980, is exempt
25 from the requirements of Division 13 (commencing with Section
26 21000) of the Public Resources Code. However, if after adoption
27 of the specific plan, an event as specified in Section 21166 of the
28 Public Resources Code occurs, the exemption provided by this
29 subdivision does not apply unless and until a supplemental
30 environmental impact report for the specific plan is prepared and
31 certified in accordance with the provisions of Division 13
32 (commencing with Section 21000) of the Public Resources Code.
33 After a supplemental environmental impact report is certified, the
34 exemption specified in this subdivision applies to projects
35 undertaken pursuant to the specific plan.

36 (b) An action or proceeding alleging that a public agency has
37 approved a project pursuant to a specific plan without having
38 previously certified a supplemental environmental impact report
39 for the specific plan, where required by subdivision (a), shall be

1 commenced within 30 days of the public agency's decision to carry
2 out or approve the project.

3 ~~(e) This section does not supersede but provides an alternative~~
4 ~~procedure to Section 21080.7 of the Public Resources Code.~~

5 SEC. 5. Section 66016 of the Government Code is amended
6 to read:

7 66016. (a) Prior to levying a new fee or service charge, or
8 prior to approving an increase in an existing fee or service charge,
9 a local agency shall hold at least one open and public meeting, at
10 which oral or written presentations can be made, as part of a
11 regularly scheduled meeting. Notice of the time and place of the
12 meeting, including a general explanation of the matter to be
13 considered, and a statement that the data required by this section
14 is available, shall be mailed at least 14 days prior to the meeting
15 to any interested party who files a written request with the local
16 agency for mailed notice of the meeting on new or increased fees
17 or service charges. Any written request for mailed notices shall be
18 valid for one year from the date on which it is filed unless a renewal
19 request is filed. Renewal requests for mailed notices shall be filed
20 on or before April 1 of each year. The legislative body may
21 establish a reasonable annual charge for sending notices based on
22 the estimated cost of providing the service. At least 10 days prior
23 to the meeting, the local agency shall make available to the public
24 data indicating the amount of cost, or estimated cost, required to
25 provide the service for which the fee or service charge is levied
26 and the revenue sources anticipated to provide the service,
27 including General Fund revenues. Unless there has been voter
28 approval, as prescribed by Section 66013 or 66014, no local agency
29 shall levy a new fee or service charge or increase an existing fee
30 or service charge to an amount which exceeds the estimated amount
31 required to provide the service for which the fee or service charge
32 is levied. If, however, the fees or service charges create revenues
33 in excess of actual cost, those revenues shall be used to reduce the
34 fee or service charge creating the excess.

35 (b) Any action by a local agency to levy a new fee or service
36 charge or to approve an increase in an existing fee or service charge
37 shall be taken only by ordinance or resolution. The legislative body
38 of a local agency shall not delegate the authority to adopt a new
39 fee or service charge, or to increase a fee or service charge.

1 (c) Any costs incurred by a local agency in conducting the
2 meeting or meetings required pursuant to subdivision (a) may be
3 recovered from fees charged for the services which were the subject
4 of the meeting.

5 (d) This section shall apply only to fees and charges as described
6 in Sections 51287, 56383, ~~57004~~, 65104, 65456, 65863.7, 65909.5,
7 66013, 66014, and 66451.2 of this code, Sections 17951, 19132.3,
8 and 19852 of the Health and Safety Code, Section 41901 of the
9 Public Resources Code, and Section 21671.5 of the Public Utilities
10 Code.

11 (e) Any judicial action or proceeding to attack, review, set aside,
12 void, or annul the ordinance, resolution, or motion levying a fee
13 or service charge subject to this section shall be brought pursuant
14 to Section 66022.

15 SEC. 6. Section 66499.7 of the Government Code is amended
16 to read:

17 66499.7. The security furnished by the subdivider shall be
18 released in whole or in part in the following manner:

19 (a) Security given for faithful performance of any act or
20 agreement shall be released upon the performance of the act or
21 final completion and acceptance of the required work. The
22 legislative body may provide for the partial release of the security
23 upon the partial performance of the act or the acceptance of the
24 work as it progresses, consistent with the provisions of this section.
25 The security may be a surety bond, a cash deposit, a letter of credit,
26 escrow account, or other form of performance guarantee required
27 as security by the legislative body that meets the requirements as
28 acceptable security pursuant to law. If the security furnished by
29 the subdivider is a documentary evidence of security such as a
30 surety bond or a letter of credit, the legislative body shall release
31 the documentary evidence and return the original to the issuer upon
32 performance of the act or final completion and acceptance of the
33 required work. In the event that the legislative body is unable to
34 return the original documentary evidence to the issuer, the security
35 shall be released by written notice sent by certified mail to the
36 subdivider and issuer of the documentary evidence within 30 days
37 of the acceptance of the work. The written notice shall contain a
38 statement that the work for which the security was furnished has
39 been performed or completed and accepted by the legislative body,
40 a description of the project subject to the documentary evidence

1 and the notarized signature of the authorized representative of the
2 legislative body.

3 (b) At ~~such~~ *the* time that the subdivider believes that the
4 obligation to perform the work for which security was required is
5 complete, the subdivider may notify the ~~public entity~~ *local agency*
6 in writing of the completed work, including a list of work
7 completed. Upon receipt of the written notice, the ~~public entity~~
8 *local agency* shall have 45 days to review and comment or approve
9 the completion of the required work. If the ~~public entity~~ *local*
10 *agency* does not agree that all work has been completed in
11 accordance with the plans and specifications for the improvements,
12 it shall supply a list of all remaining work to be completed.

13 (c) Within 45 days of receipt of the list of remaining work from
14 the ~~public entity~~ *local agency*, the subdivider may then provide
15 cost estimates for all remaining work for review and approval by
16 the ~~public entity~~ *local agency*. Upon receipt of the cost estimates,
17 the ~~public entity~~ *local agency* shall then have 45 days to review,
18 comment, and approve, modify, or disapprove those cost estimates.
19 No ~~public entity~~ *local agency* shall be required to engage in this
20 process of partial release more than once between the start of work
21 and completion and acceptance of all work; however, nothing in
22 this section prohibits a ~~public entity~~ *local agency* from allowing
23 for a partial release as it otherwise deems appropriate.

24 (d) If the ~~public entity~~ *local agency* approves the cost estimate,
25 the ~~public entity~~ *local agency* shall release all performance security
26 except for security in an amount up to 200 percent of the cost
27 estimate of the remaining work. The process allowing for a partial
28 release of performance security shall occur when the cost estimate
29 of the remaining work does not exceed 20 percent of the total
30 original performance security unless the ~~public entity~~ *local agency*
31 allows for a release at an earlier time. Substitute bonds or other
32 security may be used as a replacement for the performance security,
33 subject to the approval of the ~~public entity~~ *local agency*. If
34 substitute bonds or other security is used as a replacement for the
35 performance security released, the release shall not be effective
36 unless and until the ~~public entity~~ *local agency* receives and
37 approves that form of replacement security. A reduction in the
38 performance security, authorized under this section, is not, and
39 shall not be deemed to be, an acceptance by the ~~public entity~~ *local*
40 *agency* of the completed improvements, and the risk of loss or

1 damage to the improvements and the obligation to maintain the
2 improvements shall remain the sole responsibility of the subdivider
3 until all required public improvements have been accepted by the
4 ~~public entity~~ *local agency* and all other required improvements
5 have been fully completed in accordance with the plans and
6 specifications for the improvements.

7 (e) The subdivider shall complete the works of improvement
8 until all remaining items are accepted by the ~~public entity~~ *local*
9 *agency*.

10 (f) Upon the completion of the improvements, the subdivider,
11 or his or her assigns, shall be notified in writing by the ~~public entity~~
12 *local agency* within 45 days.

13 (g) Within 45 days of the issuance of the notification by the
14 ~~public entity~~ *local agency*, the release of any remaining
15 performance security shall be placed upon the agenda of the
16 legislative body of the ~~public entity~~ *local agency* for approval of
17 the release of any remaining performance security. If the ~~public~~
18 ~~entity~~ *local agency* delegates authority for the release of
19 performance security to a public official or other employee, any
20 remaining performance security shall be released within 60 days
21 of the issuance of the written statement of completion.

22 (h) Security securing the payment to the contractor, his or her
23 subcontractors and to persons furnishing labor, materials or
24 equipment shall, after passage of the time within which claims of
25 lien are required to be recorded pursuant to Article 3 (commencing
26 with Section 3114) of Chapter 2 of Title 15 of Part 4 of Division
27 3 of the Civil Code and after acceptance of the work, be reduced
28 to an amount equal to the total claimed by all claimants for whom
29 claims of lien have been recorded and notice thereof given in
30 writing to the legislative body, and if no claims have been recorded,
31 the security shall be released in full.

32 (i) The release shall not apply to any required guarantee and
33 warranty period required by Section 66499.9 for the guarantee or
34 warranty nor to the amount of the security deemed necessary by
35 the local agency for the guarantee and warranty period nor to costs
36 and reasonable expenses and fees, including reasonable attorneys'
37 fees.

38 (j) The legislative body may authorize any of its public officers
39 or employees to authorize release or reduction of the security in

1 accordance with the conditions hereinabove set forth and in
2 accordance with any rules that it may prescribe.
3 (k) This section shall remain in effect only until January 1, 2011,
4 and as of that date is repealed, unless a later enacted statute, that
5 is enacted before January 1, 2011, deletes or extends that date.

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